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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION
[A-475-818]

Certain Pasta from Italy: Notice of Final Results of the Fourteenth Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 8, 2011, the Department of Commerce (the Department) published the preliminary results of the fourteenth administrative review for the antidumping duty order on certain pasta from Italy.¹ The review covers two manufacturers/exporters and 11 non-selected companies. Pastificio Lucio Garofalo S.p.A. (“Garofalo”) and Molino e Pastificio Tomasello S.p.A. (“Tomasello”) were selected as mandatory respondents.² The period of review (“POR”) is July 1, 2009, through June 30, 2010.

As a result of our analysis of the comments received, the final results remain unchanged from the preliminary results for Garofalo and Tomasello. The final weighted-average dumping margins for these companies are listed below in the “Final Results of Review” section of this notice.

EFFECTIVE DATE: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Joy Zhang (Tomasello) or George McMahon (Garofalo) AD/CVD Operations, Office 3, Import Administration, International Trade

¹ See Certain Pasta from Italy: Notice of Preliminary Results of Antidumping Duty Administrative Review, 76 FR 48125 (August 8, 2011) (“Preliminary Results”).

² As a result of withdrawals of request for review, we rescinded this review, in part, with respect to Pastificio Di Martino Gaetano & F.lli SpA (“Di Martino”), Pastificio Felicetti SrL (“Felicetti”), and Pasta Zara SpA (“Zara”). See Certain Pasta from Italy: Notice of Partial Rescission of Antidumping Duty Administrative Review, 76 FR 23973 (April 29, 2011).

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1168 or (202) 482-1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 2011, the Department published the preliminary results of the fourteenth administrative review of the antidumping duty order on certain pasta from Italy. On September 7, 2011, Petitioners³ and Garofalo submitted a case brief. On September 12, 2011, Petitioners submitted a rebuttal brief. On September 14, 2011, Tomasello submitted a rebuttal brief.⁴

Scope of the Order

Imports covered by this order are shipments of certain non-egg dry pasta in packages of five pounds four ounces or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione, by QC&I International Services, by Ecocert Italia, by Consorzio per il Controllo dei Prodotti Biologici, by

³ Petitioners are New World Pasta Company, Dakota Growers Pasta Company, and American Italian Pasta Company.

⁴ Tomasello submitted an untimely rebuttal brief. Based on Tomasello's explanation of the circumstances regarding its late filing and its request for acceptance of this brief, the Department extended the deadline and accepted Tomasello's rebuttal brief for these final results. See Letter from Melissa G. Skinner, Director, Office 3, to David L. Simon, counsel for Tomasello, dated September 16, 2011.

Associazione Italiana per l'Agricoltura Biologica, by Codex S.r.L., by Bioagricert S.r.L., or by Istituto per la Certificazione Etica e Ambientale. Effective July 1, 2008, gluten free pasta is also excluded from this order. See Certain Pasta from Italy: Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part, 74 FR 41120 (August 14, 2009). The merchandise subject to this order is currently classifiable under items 1901.90.9095 and 1902.19.20 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the “Issues and Decision Memorandum for the Final Results of the Fourteenth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy (2009-2010)” from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, (“Issues and Decision Memorandum”), dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available in the Central Records Unit, main Commerce Building, Room 7046. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The signed Issues and Decision

Memorandum and electronic version of the Issues and Decision Memorandum are identical in content.

Changes since the Preliminary Results

Garofalo

Regarding Garofalo, based on our analysis of the comments received, we have made no changes in calculating the dumping margin. Garofalo submitted a comment in its case brief regarding the Department's draft liquidation instructions. Based on our analysis of this comment, we find that, because the particular importer-specific rate referenced by Garofalo in its case brief is a de minimis rate, the Department has revised its liquidation instructions for this certain importer-specific rate to instruct U.S. Customs and Border Protection ("CBP") to liquidate at a rate of zero percent. See Issues and Decision Memorandum at Comment 2.

Regarding Tomasello, based on our analysis of the comments received, we have made no changes in calculating the dumping margin. See Issues and Decision Memorandum at Comment 3.

Final Results of Review

We determine that the following weighted-average margins exist for the period July 1, 2009, through June 30, 2010:

Manufacturer/exporter	Margin (percent)
Garofalo	3.20
Tomasello	4.18
Review-Specific Average Rate ⁵	
Applicable to the Following Companies:	3.57
Agritalia, Erasmo, Indalco, Labor, PAM, P.A.P., Afeltra, Fabianelli, Riscossa, Rummo, and Rustichella ⁶	

Duty Assessment

The Department shall determine and CBP shall assess antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above de minimis (i.e., at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries.

To determine whether the duty assessment rates covering the period were de minimis, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculated importer (or customer)-specific ad valorem rates by aggregating the dumping margins calculated for all U.S. sales to that importer or customer and dividing this amount by the total

⁵ This rate is a weighted-average percentage margin (calculated based on the publicly ranged U.S. values of the two reviewed companies with an affirmative dumping margin) for the period July 1, 2009, through June 30, 2010. See Memorandum to the File, titled, "Pasta from Italy: Margin for Respondents Not Selected for Individual Examination," from Joy Zhang and George McMahon, Case Analysts, through James Terpstra, Program Manager, dated August 1, 2011.

⁶ The non-selected companies are: Agritalia S.r.L. ("Agritalia"), Domenico Paone fu Erasmo S.p.A. ("Erasmo"), Industria Alimentare Colavita, S.p.A. ("Indalco"), Labor S.r.L. ("Labor"), PAM S.p.A. and its affiliate, Liguori Pastificio dal 1820 SpA ("PAM"), P.A.P. SNC Di Pazienza G.B. & C. ("P.A.P."), Premiato Pastificio Afeltra S.r.L. ("Afeltra"), Pastificio Fabianelli S.p.A. ("Fabianelli"), Pastificio Riscossa F.lli Mastromauro S.p.A. ("Riscossa"), Rummo S.p.A. Molino e Pastificio ("Rummo"), and Rustichella d'Abruzzo S.p.A. ("Rustichella").

entered value of the sales to that importer (or customer). Where an importer (or customer)-specific ad valorem rate is greater than de minimis, and the respondent has reported reliable entered values, we apply the assessment rate to the entered value of the importer's/customer's entries during the review period. Where an importer (or customer)-specific ad valorem rate is greater than de minimis and we do not have reliable entered values, we calculate a per-unit assessment rate by aggregating the dumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

The Department clarified its “automatic assessment” regulation on May 6, 2003. See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see Antidumping and Countervailing Duty Proceedings Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following antidumping duty deposit rates will be effective upon publication of the final results of this administrative review for all shipments of pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by section 751(a)(1) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for companies subject to this review will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, de minimis, no cash deposit will be required; (2) if the exporter is not a firm covered in this review, but was

covered in a previous review or the original less-than-fair-value (“LTFV”) investigation, the cash deposit rate will continue to be the company-specific rate established for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate will be 15.45 percent, the all-others rate established in the Section 129 determination. See Implementation of the Findings of the WTO Panel in *US – Zeroing (EC)*: Notice of Determinations Under Section 129 of the Uruguay Round Agreements Act and Revocations and Partial Revocations of Certain Antidumping Duty Orders, 72 FR 25261 (May 4, 2007). These cash deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(5). Timely written notification of the

return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

December 2, 2011
Date

APPENDIX I

List of Comments in the Issues and Decision Memorandum

- Comment 1: Whether to use Zeroing Methodology in this Administrative Review for Garofalo
Comment 2: Whether the Department Should Modify its Liquidation Instructions to
U.S. Customs and Border Protection regarding Garofalo
Comment 3: Whether the Department Should Include Certain Capitalized Labor Costs in its
Calculation of Tomasello's Cost of Production

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